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Comments on the Draft General Comment no. 19: On Public Spending and the Rights of the Child (Article 4 of the Convention on the Rights of the Child)

Submission of the Danish Government

The Danish Government welcomes this opportunity to submit comments on draft General Comment no. 19 on Public Spending and the Rights of the Child. The Danish Government commends the Committee for its initiative in drafting the General Comment, and considers that the General Comment will provide valuable guidance to State Parties in the implementation of their obligations under the Convention.

The Danish Government would first like to underline the importance that it attaches to the Convention, and reaffirm its commitment to comply with Denmark's obligations under the Convention.

The Danish Government hereby submits its written submission on the draft General Comment. In cases where no specific comments are provided on issues raised in the draft General Comment, this should not be interpreted as either agreement or disagreement with the substance of the draft General Comment.

Implementation of the rights of the child in public spending

Denmark agrees that public spending may be considered an 'appropriate legislative, administrative and other measure' under Article 4. Denmark considers, however, that Article 4 by its very nature allows the State Parties a wide margin of appreciation in the implementation of the Convention i.a. through public spending. The General Comment should hence be careful not to outline requirements for the budgetary process and for public spending that are too specific.

The Danish Government considers that in light of the broad margin of appreciation under Article 4, the draft General Comment to be overly prescriptive and specific. Denmark has reservations as to whether such specificity can be derived from Article 4.

There are a number of ways to ensure, that public spending respects, realises and improves children's rights and the most efficient and appropriate measures may differ between countries. The draft General Comment hence sends an unfortunate signal by seemingly prescribing only one method.



Chapter V of the draft General Comment is particularly prescriptive and includes measures which may not be utilised or feasible in every State Party. For example the Danish budgetary system does not include pre-budgetary statements and monthly or quarterly in-year reports. And while these tools may be useful in some State Parties the Danish Government does not consider them to be a prerequisite for protection of children's rights and fulfilment of the obligations under the Convention. The description of the budgetary process and the requirement that audits be carried out by the Supreme Audit Institution are other examples, where the draft General Comment seems overly prescriptive. A standardisation as described in Chapter V deprives the State Parties of the discretion offered by the Convention and it furthermore precludes systems such as the Danish in which municipal freedom allows local priorities in the effort to ensure children's rights.

Denmark considers it to be important that the examples provided in the draft General Comment only serve as examples of good practises. Due to the margin of appreciation and the discretion granted to the State Parties in their implementation of the Convention, the examples are not to be considered as the only way for a State Party to meet its obligations. Denmark suggest that the General Comment could focus on a principle-based discussion, while providing non-binding examples showing the broad range of methods to fulfil the obligations under the Convention.

Denmark considers children's rights as important considerations in budgetary matters affecting children. The priority and weight attached to children's right must, however, be weighed against other key priorities including rights of other groups. And while the best interest of the child should be attributed considerable weight in budgetary decisions affecting children's rights, the draft General Comment should reflect that importance may legitimately be attributed to other key priorities.

The Danish Government thus invites the Committee to clarify the parts of the draft General Comments which set out the scope of the legal obligations of the State Parties under the Convention.

Other matters

The Danish Government respectfully suggests that a clarification be made with regard to para. 21 of the draft General Comment taking into account the different legal systems of the State Parties.

Denmark reiterates its firm support for the work of the Committee and avails itself of this opportunity to renew to the Committee the assurances of its highest consideration.